

FLOOD CONTROL ADVISORY BOARD MINUTES

October 24, 2001

The monthly meeting of the Flood Control Advisory Board was called to order by Chairman Patel at 2:05 p.m. on Wednesday, October 24, 2001.

Board Members Present: Hemant Patel, Chair; Mike Saager, Secretary; Scott Ward; Ray Acuna (for Tom Callow), Ex Officio.

Board Members Absent: Shirley Long, Vice Chair; Melvin Martin; Paul Cherrington, Ex Officio.

Staff Members Present: Michael S. Ellegood, Chief Engineer & General Manager; Julie Lemmon, General Counsel; Tom Johnson, Deputy Chief Engineer; Marilyn DeRosa, Project Manager; Dick Perreault, CIP/Policy Branch Manager; Tim Phillips, Project Manager; Michael Alexander, Management Analyst; Lisa Amos, Property Management Supervisor; Mike Lopez, Civil/Structures Branch Manager; Jeff Riddle, Sr. Civil Engineer; Jim Schwartzmann, Lands Division Manager; Valerie Swick, Project Manager; Mike Wilson, Property Management Branch Manager; Kathy Smith, Clerk of the FCAB; Monica Ortiz, Administrative Coordinator; Lorena Mosso, Customer Service Representative.

Guests Present: Kofi Awumah, Huitt-Zollars; Roger Baele, David Evans & Assoc.; Geoff Brownell, David Evans; Jeannette Fish, Maricopa County Farm Bureau; Ed Fritz, MCDOT; Jon Girand, Huitt-Zollars; L. Steve Miller, PEC; Tim Morrison, HDR Engineering; Hasan Mushtaq, City of Phoenix; Mary Reece, Bureau of Reclamation; Robert Soller, City of Chandler.

Because the meeting began without a quorum, the Chairman asked that we begin with Agenda Item Number Four.

4) LEASE AND DISPOSAL OF EXCESS FLOOD CONTROL DISTRICT REAL PROPERTY.

Ms. Lemmon referenced the Draft Resolution she distributed to each of the Board members. The Flood Control District acquires a lot of real estate. In 1986, when the Arizona Canal Diversion Channel was underway, the District realized that it had a lot of real estate already identified as excess property. The District went to the Board of Directors to ask for some guidance from them. They responded with guidance through Resolution 86-10, which embodied thoughts from the Board. One thought was that property owned by the Flood Control District is not on the tax rolls and, to the extent that it's possible, property should be returned to the tax rolls and put into good use for the area's economy. There was also an understanding that the funds that would be raised from that, because they came from taxes for flood control, would be put back into the Flood Control District's coffers to be used for future projects. The District was tasked in 1986 to go

forward and identify all of the excess lands that it had at that time and in five years to come up with plans to deal with the excess property. The lands were identified as lands that must be held for flood control or storm drainage purposes and then lands that were in excess. That was done and continues to be done to this day. Jim Schwartzmann from the Lands Division was asked to give a presentation on excess lands and how they can be managed.

Mr. Schwartzmann referred to a presentation he gave to the Board a couple of months ago regarding the process the Lands Division goes through in acquiring land and disposing of property. Mr. Schwartzmann brought their attention to a table listing the five-year projection of properties that the District expects to sell for the Flood Control District over the next five years. There is a significant impact to the Flood Control District on these excess land sales. In looking at the 2001/2002 total for land sales, the District expects to bring in almost \$9 million this fiscal year. Again, in the 2002/2003 fiscal year, another \$9 million. The out years are fairly low, but the District has other potential lands that will be determined as excess and will be getting appraisals on them and looking at what properties are not needed for projects, so the out year numbers will get higher. This is a huge resource for the District and it has been in the past. Last year the District had about \$1.1 million in revenue from land sales with the previous year's sales at about \$2 million. Mr. Schwartzmann explained that the District goes to public auction with their excess properties, which generates quite a bit of money.

Ms. Lemmon noted that along with the handout she distributed, there was a copy of a news article from one of the County publications in which then Chairman Kunasek was talking about the trails system. The Flood Control District was requested to look at their excess and retained lands policy and make some special provisions for the trails system that is being developed in Maricopa County. Ms. Lemmon reiterated that one issue is about land that the District is holding, not land that they are selling as excess. The request is that, after flood control and storm drainage needs are met, trails be given a priority in terms of development on lands that are being held. The other issue deals with the excess land. That is what the proposed Resolution deals with – updating a 1986 Resolution and asking that when the District sells property that is excess, if there is a trail site or trail area identified, the District retain perhaps an easement for the trail system when the property is sold. In regards to property the District continues to hold, it is believed that legally, and also pursuant to prior Resolutions, as long as it's for public use, and the District is keeping the land anyway, that it is not a problem for us to allow trail use. Making trail use a priority is the only change in terms of excess land sales.

Discussion:

Patel: If there is a big push on this, we have to ask the question, “who is going to take the liability on?” In the past, it's been the local sponsor, but in this case is it County Parks that will take on the O&M and insurance issues and are they prepared for that responsibility? We could unleash miles and miles of trail corridors on them and my recollection is that they are not adequately funded.

Lemmon: In terms of liability, in the current IGA for the Sun Circle Trail and in the proposed agreement we have with the Trails Commission, the County did agree to take the liability and also to do the Operation & Maintenance as necessary. The County & the Flood Control District share the same insurance pool, so they would be taking on the defense of anything that came up. I think that we could be covered adequately in terms of liability. I think the only question that would come up is in terms of revenue.

Patel: That's a key issue. I know it's not part of this presentation, but we're looking at actual hard revenue from excess land sales. To try and take away a big piece of our inflow to give priority to trails is definitely a noble cause, but then if we can't meet our obligations, then we're not doing what we're set up for.

Ellegood: We did meet a couple of times with both Parks and Supervisor Kunasek and this Resolution is a final interpretation of what the Supervisor would like to see. If the truth were known, the Parks Department would like to use our excess land for a park or at least have the right of first refusal, which this Resolution does not reflect. Instead, the Resolution reflects that if there is a trail that has been defined, presumably through a trails master plan that Parks is supposedly working on for the entire county, and it crosses Flood Control District land, then there will be some restriction placed on the sale. What that does, though, is fundamentally changes the direction that we previously received from our Board of Directors in 1986, which said you have to sell it for the highest and best revenue generation possibilities. I don't feel this is a terribly bad compromise. We're not talking about that much land on that much of our property – particularly in areas where we are attempting to sell it. This does represent a distinct departure and I wanted this group here to be aware of it and comment on it.

Patel: So long as it's a flexible plan, because by the sound of it, it's not a hard encumbrance on the land. Anyone that would acquire the land would be totally boxed in if they still maintain a trail corridor through there. We could still turn around and sell the land for the highest and best use, except we would have a trail corridor through it, and that could be an amenity, hopefully, on that land. It's definitely a tough situation because I know you are going to talk with us about the State Land Department, and we don't want to try to mimic their approach to protect public land and not get along with other public agencies.

Schwartzmann: Trails can be placed on properties and have a negligible affect on value. They can also be placed on properties and have significant severance damages to the point that no one would buy the property. I think it's contingent upon the Flood Control District to approve the alignment of trails through excess properties before the sale takes place. There may be situations in certain properties that a trail simply cannot be placed on the property prior to sale without reducing the value by hundreds of thousands or millions of dollars. I think in most cases though, properly thought out and with some prior approval from the District, a trail corridor or easement could be placed on excess property, which would be an amenity. I think that today in a lot of land development schemes and efforts to zone and develop properties, trails and those kinds of packages are amenities to the property. Properly done, I think it's probably okay in most cases. But, if the District were to have no control over where the actual trail went, it could severely impact the value of the property.

Ward: Do you bank on these revenues when you put your budget together for the up-and-coming year?

Ellegood: We take a discounted level of revenue generation from it. We typically generate more revenue than we bank on from the land sales. This provides a good and important revenue stream, but not one that we always count on to the last nickel in order to develop our budget or our CIP.

Ward: Where I'm coming from is, I think that unfortunately you get squeezed in your job and you have one politician that says you're doing a great job, but you have to cut your budget. Then you have another politician that says you've done a great job with the amenities so let's create more trails systems, which increases the cost. My concern is that it doesn't inhibit you from creating revenue, that we create systems that don't create the highest and best value of that excess property in order to create revenue for you. I think it's very sensitive and trails are a very noble cause. We really have to be cognizant in each case that we don't create trails on excess property that would inhibit the ability to sell that excess property.

Ellegood: We strongly agree with that.

Schwartzmann: I believe the Resolution would allow us to look at those factors, rather than blindly approve someone else's template of a trail system across our excess property. I believe we have the ability to say that it is not in our best interest because it ruins a percentage of the property. We would look at that from the standpoint of how we can use those resources here.

Ellegood: The County is now attempting to find the ways and means to develop a trails master plan. Tentative plans have been put together that show the use of a lot of land used for watercourses that we either own or have significant easements over as part of the trails corridor. The position that I have taken is that the Flood Control District will plan the trails on our properties. By doing so, that provides a level of protection with respect to revenue generation that we are also looking for.

Saager: What is the formula the County uses to sell their properties when it comes to an auction? Do they take a minimum bid based on an appraisal – or two or three appraisals?

Schwartzmann: What we do is get an appraisal to set the minimum bid at public auction and then we actually have a live public auction here. There have been some auctions that we did not receive the minimum bid, which was based on the appraisal. We've had to close it down and go back and revisit the issue, have the appraiser look at the property again and find out if we've over-valued it. We do a lot of advertising in advance of selling these properties. The market is pretty well aware of the property we have. The bidders pretty much know what they are doing and we've had good success in having it bid on in the past. We do get a minimum bid at public auction based on one appraisal and we go from there.

Saager: So you don't get three appraisals and take the average of the three? You're pretty confident in the person you have appraising the property?

Schwartzmann: Particularly in the case of a public auction. If we were going to do an exchange, I would recommend that we do at least two to three appraisals and look at those values. In the case of a public auction, if you've gotten a lot of notice out and the real estate community knows about it, then the minimum bid is fine. If the appraisal is too low, it's going to go way up at public auction. We encourage our appraisers to look at it from the standpoint of determining the minimum bid at public auction rather than maybe the highest bid, because they can't hit that. I think that the actual users are the ones that have to determine what their final bottom line is to bid on. As long as we get a lot of notice out to everyone, we're not too worried at the public auction stage.

Saager: For the few times they don't meet the minimum in the bid process, what happens? Does it go back to another appraisal and if a little lower, do you put it out to the public sector and let professional brokerage firms try to sell it?

Schwartzmann: We have actually put it out to public auction in the past again after redoing an appraisal. We also pay half a commission to real estate brokers as long as they aren't the buyers. If they are truly third party brokers bringing a buyer in, we will pay half a commission to the brokers. We have, on some occasions, had properties we tried to sell a couple of times and they wouldn't sell and we haven't done anything with them, we just let them sit and wait until the time is right. A lot of our properties are not premium properties. The reason we buy property is probably because it's flood prone or has some other kind of nexus to a flood-related issue. We have gone back and rezoned properties to make it more compatible and acceptable to the development community.

Patel: As significant a revenue source as this is, has there been any thought given to the creation of premium excess land in our land use? When you do land development, in working a facility so you wind up with a nice parcel to sell, does that go into the design process?

Ellegood: Typically no, but it is there and it is a secondary thought that we had. Officially, we are not in the land speculation business and I don't want to get into a position where our mission becomes blurred because we are busy trying to generate revenue. However, Jim Schwartzmann and his staff are very entrepreneurial in their outlooks. We typically do not seek to buy more property than we need.

Patel: If you use existing property that you have and if you put a facility in there, does this group get involved with the design team as the placement of those facilities so you wind up with a nice, usable piece of excess land?

Schwartzmann: Yes we have done that in the past and have ended up with some fairly good pieces of property to resell where we shifted a basin, say from the frontage road to the back of the parcel and saved the frontage to sell. We at one point thought we may be able to go in and do some infrastructure and make our property more ready for development; however, we decided against that. We're going to go probably only as far as zoning to actually up-zone the property to a higher and better use. We've also worked with our landscape architects to determine what portions of excess property we might be able to retain next to the associated project with perhaps a landscape note. Those kinds of things sometimes enhance our ability to make the adjacent structure look better.

Lemmon: When we're acquiring by condemnation we are only allowed to condemn what is necessary for the project.

1) APPROVAL OF THE MINUTES OF THE MEETING OF SEPTEMBER 26, 2001

ACTION: It was moved by Mr. Ward and seconded by Mr. Acuna to approve the minutes as submitted. The motion carried unanimously.

2) ELECTION OF OFFICERS

Based on District staff's recommendations, Mr. Ellegood suggested the FCAB elect the following Board members to serve a one-year term from November 2001 through October 2002:

Chair	-	Hemant Patel
Vice Chair	-	Scott Ward
Secretary	-	Shirley Long

ACTION: It was moved by Mr. Acuna and seconded by Mr. Saager to approve staff recommendations. The motion carried unanimously.

3) APPOINTMENT TO THE FCAB STANDING COMMITTEES FOR 2002

Based on District staff's recommendations, Mr. Ellegood suggested the FCAB appoint the following Board members to the FCAB Standing Committees:

<u>Legislative Committee</u>	<u>Program & Budget Committee</u>
Paul Cherrington	Melvin Martin
Mike Saager	Hemant Patel
<u>Policy Committee</u>	<u>Public Information Committee</u>
Tom Callow	Shirley Long
Hemant Patel	Scott Ward

ACTION: It was moved by Mr. Saager and seconded by Mr. Acuna to approve staff recommendations. The motion carried unanimously.

5) GLENDALE/PEORIA AREA DRAINAGE MASTER PLAN UPDATE IMPROVEMENT PROJECTS.

Marilyn DeRosa, Project Manager, presented Resolution FCD 2001R012 for the Glendale/Peoria Area Drainage Master Plan Update Improvement Projects.

This Resolution will direct the Board of Directors to adopt the recommendations of the Glendale/Peoria ADMP Update Study, including the Nine-Phase Improvement Projects Program, and would authorize and direct the Chief Engineer to:

- 1) Negotiate IGA's for cost sharing, land acquisition, rights-of-entry and/or easement acquisition, design, construction, construction management, and operation and maintenance of the Improvement Projects.
- 2) Proceed with design of the Improvement Projects.
- 3) Negotiate with owners of real property required for the Improvement Projects.
- 4) Initiate condemnation actions of real property required for the Improvement Projects, if not obtainable by donation or purchase.
- 5) Include funds in the District's Five-Year CIP.

During the ADMP Study, the District looked at potential cost-share partners and appropriate cost-share amounts. The City of Peoria will be the primary partner. The District proposed to be the lead agency for the Improvement Projects. The total project cost is \$34.3 million, with the Flood Control District's share coming to \$13.8 million.

In summary, the District has developed a cost effective, regional drainage plan that protects the entire study area. The improvements are primarily in the rapidly developing areas to the north. Implementation of this project can achieve additional cost savings through coordination with other agencies.

Discussion:

Patel: Is there going to be cost participation by Glendale and Phoenix on this?

DeRosa: The portions of the project that Glendale and Phoenix would participate in is Phase Nine, which is the 67th Avenue/Pinnacle Peak Road Improvements on the east side of the New River. Peoria is our primary partner because 90% of the improvements are in shared jurisdiction with the District and Peoria.

Patel: By approving this Resolution, I'm a little unclear as to what it achieves. Is this something that impacts the properties out there so developers are now aware that this is coming?

DeRosa: The goal is to have the development community and other agencies aware that this plan exists and that at some point in time, we are making a good faith effort to provide regional drainage infrastructure for that watershed following this plan. It also helps in the prioritization process if the cities adopt the plan.

[Dick Perreault, CIP/Policy Branch Manager, was asked to assist in answering Mr. Patel's question.]

Perreault: We have asked our partner cities, once we complete an ADMP, to adopt it showing their willingness to follow the plan. We want them to adopt it and use it in their land-use decisions and in their future public works projects.

DeRosa: We felt that it would be appropriate for our Board to adopt this Resolution. This is more a conceptual plan. I don't expect to see things exactly as I've designed them here end up in the ground over the next 20 years, but this does provide a road map.

Acuna: As somebody that works for a city, these tools are invaluable. When you work with a developer and communities, a lot of time what they say is that they don't believe it rains in the

desert, but it does rain in the desert. What these plans do is identify conceptually where you manage your watercourse. Storm drains and watercourse master planning is a land issue, particularly when you are taking developable land away from somebody who has a certain yield in mind. I applaud you in the work that you are doing and I know we've used a lot of master planning tools that you folks have developed to guide our developers and make decisions as to where our infrastructures would get built.

ACTION: It was moved by Mr. Acuna and seconded by Mr. Ward to approve staff recommendations. The motion carried unanimously.

6) **FISCAL YEAR 2002/2003 CAPITAL IMPROVEMENT PROGRAM (CIP) PRIORITIZATION PROCEDURE RESULTS AND STAFF RECOMMENDATIONS**

Dick Perreault, CIP/Policy Branch Manager, presented information on the District's CIP process. This is one of the initial phases the District goes through to get a project identified and considered for the CIP. In most cases, the project partners – cities or other agencies – will request a project for us. District staff goes through this process once a year to see whether the projects should be considered further for inclusion in the CIP. The recommendations Mr. Perreault presented were previously sent out to the cities and agencies that submitted projects this year. If they didn't agree with the recommendation, they had a chance to attend today's meeting to discuss their project with the Advisory Board.

This year the District received a total of fourteen requests from seven different agencies totaling approximately \$118 million. Staff's recommendations were to:

- ✍✍Recommend 8 projects for further CIP consideration
- ✍✍Defer 2 Project Requests
- ✍✍Not Recommend 3 Requests
- ✍✍Send 1 Request to the Floodplain Branch

Discussion:

Saager: When these packets are sent out to the municipalities, why don't we have the financial commitments we need? We're now hearing from some of the smaller communities that they don't have the money. From the County's standpoint, we have the money but they don't, so it just causes internal problems because we have to reallocate the funds, etc. It seems like so much time and money is put into this, why don't we just secure the funds up front and tell them if they don't have the funds to match our funds, then don't submit potential projects? Don't we try to line up financing after we decide whether to do a project or not? Shouldn't we do that when we send out the initial letter asking if there are any projects they want to do that the District could participate with them in?

Perreault: That's exactly the problem we've had in the past where we've gotten almost inundated with project requests, yet when we've gone to talk with the cities, they've not had the resources. This year we instituted another new form – a Letter of Intent. We asked not only that they submit the request and meet the criteria that we're going to evaluate the request on, but we want to know if the city/town has adopted the plan, if they have money in their five-year plan, and where that money is located. If it's in the next couple of years, we will try to match it if we can and if we can't we'll tell them. One of the things that our process in the prioritization does is identify the backlog and the work that's out there that people have interest in. Either we have developed it through our plans or the cities have developed it independently in their long-term management plans. I think it's important, even if we can't implement these now, in the next 5-15 years we can

at least see what that level of demand is. There are some folks that question the need for drainage in the desert. I think what our process shows is that there is a big need.

Saager: This form you referred to is not a binding thing but an indication that they realize that they are going to be responsible for their portion, in most instances 50%?

Perreault: Right. All the communities know what our overall guidelines are that we try to negotiate as far as who does what, what the cost would be, and who would take on operations & maintenance. If they want to propose something different, we will evaluate that but we evaluate that in accordance with our criteria. If they propose that the Flood Control District pick up the total cost, they will not score very well on that criteria. If they suggest that the Flood Control District do the operations & maintenance, they will not score well on that criterion. But, the other merits of the project may still score well, which tells us there is a good project here but we really need to work out the challenges of how we implement it.

Saager: I suggest that next year the District consider sending out something a little bit more binding than that. What's happening is that the developers are getting frustrated because these smaller communities are leveraging these developers saying that they've committed to the District and that if they want to get their final plat, they might have to kick in some money. What are your criteria on not recommending a project?

Perreault: On any given year we do not have a cutoff point, it's based on the committee's evaluation of the request. We do standard deviations and see where we agree and disagree – where the items of contention are. In some cases, a project may not score well, but in consideration of the committee we think it's still a good project. We don't want to necessarily say no, but we know the project is going to face an uphill battle. We have some projects that have been on our list for five and six years and they're just not moving. One of the things I'll be doing this next year is to send letters out to the cities asking what they want to do with these projects. Regarding your comment about working with some of the smaller communities, I can tell you it's just as challenging working with the larger ones too. Some of the smaller communities probably have more of a challenge in that development is so important to them they really want to have the development occur, but they know they can't afford the infrastructure. So they try to get the private sector to provide some of that. That's what we've been promoting. We want to have these public-private partnerships.

Saager: Mike, are we not going to get people wanting to do projects if we tell them they have to sign a document committing to a certain amount of money. I'm hearing that we have projects that have been looming around probably mostly because of lack of funding. I'm not saying we can lock them in, but isn't there something we can do to make it more binding to where if they don't come through we're going to move on?

Ellegood: Clearly, the only binding thing we have is an Intergovernmental Agreement (IGA) and that required literally months, and in some cases years, to work out. We generally expect a good faith effort on their part to submit projects for which they will have a requisite amount of funds. I can corroborate exactly what you are saying. We get projects that we know there is no money in that community to do and we also know that they're going to leverage a developer to come up with their local cost-share. With respect to an earlier question you had relative to the evaluation, the evaluation is as objective as we can make it and as non-political as we can make it. Our evaluation committee rank these projects based on a criteria of how it fits into a master plan, the hydraulic and significance, level of protection area, environmental, etc. This is a pretty good process, but where it does break down is in the local funding part of it.

Patel: It's definitely a catch-22 in terms of us holding their feet to the fire on funding.

Saager: From a private sector, if I'm building 20 houses and the framing package is "X." If I waited five years for that, the cost would probably be doubled or tripled. I think we have to have something a little bit more binding. To hear that there are projects from three to five years out and you look at the cost at how things are going up. With no real predictions of what the economy is going to do in Arizona.

Patel: I think we should develop a policy on how long we carry projects. We've had two instances already where we've carried projects for a long time, the projects have run into trouble, and we've got money locked up. We need some kind of policy formulated giving a timeframe and then the project goes back into line.

Perreault: We have some projects that we didn't have the technical data to back them up and it's taken a year or two to finalize. I wouldn't put those in the category that we've abandoned because we are just now getting the information. We have other project, though, that were requested but have just languished there. I can go through those and it's been more than four or five years and there has been no activity in the last two to three years and we don't see any coming up soon, we can suggest that they be taken off the list.

Patel: Maybe we should have the Policy Committee meet with you and discuss any recommendations you think would work.

Ellegood: That would be welcomed. Also, the points that Mr. Saager brings up about how we can get a little more commitment at the time the project is submitted would be welcome too. Maybe that is something the Policy Committee could help Mr. Perreault with.

Patel: If we can schedule this meeting, maybe Mike (Saager) can attend that and bring his thoughts.

ACTION: No action was required – for information and discussion only.

7) LACC PROJECT STATUS UPDATE

Tim Phillips, Project Manager, provided the Advisory Board an update of the Laveen Area Conveyance Corridor.

The design of the 43rd Avenue and Southern Basin is essentially completed. As soon as the IGA's and development agreements are executed and the District knows there is project, they can go to advertisement for the 43rd Avenue Basin. The Laveen Channel is being designed internally. The District is looking to finish the design in early April. Assuming the IGA's and development agreements are in place, construction should begin in June.

ACTION: No action was required – for information and discussion only.

8) FY 01/02 FIRST QUARTER RESULTS

Mike Alexander, Management Analyst, gave a comparative of the financial operating results of the first quarter of FY 2002.

In total, the District's operating budget is 17.4% under budget due primarily to the process being slower than was thought for the approval, the invoicing, and the payables to get payments out. Mr. Alexander thinks this is just a timing difference and mentioned that all these things are on order and budgeted expenses will be caught up by the end of the second quarter. In the CIP there is a 59% favorable variance to budget. A lot of projects have slipped into future quarters and a few have slipped into next year. The District has spent about 55% of budgeted funds in the first quarter. About 47% has been achieved of the first quarter budgeted revenue. The Property Tax variance is due to the issuing of the property tax bills a little later than anticipated. Mr. Alexander has been assured that the District will be back on budget by December.

The projection of our ending fund balance is given to two primary assumptions. One that the District will hold the operating budget at the original budgeted target of \$22 million, and second, that the shortfall in revenue will be made up of a reprioritization of the CIP and moving some projects into the contingency and finishing the projects kept current. If these two assumptions come to fruition, the District will end the year at about \$11.3 million, which is exactly where they want to be.

ACTION: No action was required – for information and discussion only.

9) ECONOMIC FORECAST FOR MARICOPA COUNTY

Mike Ellegood informed the Advisory Board members that he is soliciting advice and counsel relative to their thoughts on what can be expected in terms of the economic forecast. Substantial parts of the District's revenue are dependent on the economic health of the community. Mr. Ellegood is concerned about cost share with the District's partners. Many of them depend upon sales tax revenue, which can go down. A lot of it is dependent on revenue shared by the State and the State has already indicated that they are cutting that back. The District's primary source of revenue is the secondary property tax. Clearly what could occur with property values over the next few years could have an impact on the District's ability to collect that. Mr. Ellegood solicited thoughts from any of the Board members from their perspective what the District should expect their impacts to be.

Scott Ward said that what he is seeing in the market place is that the homebuilders are really taking a 60-90 day look period. He doesn't think anybody knows what the economy is going to be like in the County. One person Mr. Ward spoke to said that we could see fixed rate mortgages/interest rates under 6% by Christmas time or the first of the year. Even in the worst times, Phoenix still did about 11,000 new home building permits per year and there is still a tremendous amount of people coming here. Mr. Ward indicated that he's being cautious in his business and thinks we'll have to see what happens Nationally and Internationally in the next 60-90 days. He added that Phoenix is still much better off than other large metropolitan areas in the United States – employment is better here, we haven't seen any drastic reduction in jobs, the weather is great, the religious and political climates are better than they are in other cities.

Hemant Patel noted that in his business they are holding off on large capital outlays and some of their clients are adopting the "wait and see" stance, putting things off until the first quarter of next of fiscal year.

Mr. Ellegood reiterated that most prudent business people are taking a "wait and see" attitude and taking it a day-at-a-time.

Mr. Ward commented that where he sees continued growth is along the freeway corridors. He said he was interested to see the hydrology around the freeways. If ADOT still continues with that type of funding and growth, he thinks it's missing excellent development along the freeways just because of the concentration of traffic.

ACTION: No action was required – for information and discussion only.

10) COMMENTS FROM THE CHIEF ENGINEER & GENERAL MANAGER

Mike Ellegood mentioned that he received a letter last week from the State Land Department (copies were distributed) that challenges the easements that the District currently owns in Pinal County. There are a series of flood control structures constructed in the 1950's and 1960's by the Soil Conservation Service that protects Maricopa County. The structures are in varying stages of disrepair and are part of the dam safety program. In order to construct, operate, and maintain these structure, the District has received from State Land back in the 1970's an easement, which is very broad, to flow and to flood all of these properties. There are development pressures in Pinal County in the Apache Junction area, just as there are in Maricopa County. With our easement, these properties cannot be sold or developed, so both the Town of Apache Junction, Pinal County and State Land has asked the District to give up part of the easements. Mr. Ellegood indicated that the position he's taken, while he doesn't want the District to be obstructionist, until a study is done of what is needed out there and how the District is going to treat the dam structures, the District is not in any position to say they don't need it. Mr. Ellegood suggested to the State Land Department that if they wanted to help fund a study to make these determinations, the District would be willing to work with them. The letter from the State Land Department challenges the statutory validity of the easements; therefore, the District is developing some sort of strategy to deal with State Land. Mr. Ellegood said that he feels this is a major issue not just for Maricopa County but virtually every utility, municipality, and county in the State that has an easement that allows them to cross or utilize state land for any purpose whatsoever for which there has been compensation received. Mr. Ellegood asked Julie Lemmon and Jim Schwartzmann to get together and develop a strategy for dealing with this. Meanwhile, a brief reply was drafted to the State Land Director indicating that this is a big issue and that the District is going to need more time to study it than the two weeks they gave the District to respond. Mr. Ellegood added that any advice from the Advisory Board on this issue would be gratefully accepted.

Mr. Patel suggested that we get some other interested parties on board so that the District is not fighting this battle on their own. Mr. Ellegood mentioned that the impacts of developing this area and removing the dams or not repairing the dams might have substantial impacts on Maricopa County. Mr. Saager inquired about bringing this to the attention of some of the Supervisors and then ask them to contact some of the elected officials on the State level and work through that channel. Mr. Ellegood responded that it would be very feasible to do this and that each Supervisor received a copy of the letter. Mr. Saager asked if Mr. Ellegood could identify who gave the State Land Director his marching order or if he just took this upon himself. Mr. Ellegood replied that his experience with the State Land Department suggests that they probably didn't have any real direction, but that this is an opportunity for them to generate some revenue. He thinks it's feasible that the District doesn't need all that land, but with some kind of study, the District doesn't know what is needed or not. Mr. Ellegood further mentioned that there is a little school that State Land sold property to and discovered later that it's in the District's easement. Mr. Patel remarked that the feedback he would want from Mr. Ellegood is if the District wants to hang on to the easements or not, if the three dams represent \$2 million worth of construction liability and a lot of money to study that whole area, and if by this initiative that State Land has taken the District could get away from it all. Mr. Ellegood responded that it's more like \$2 million to study the problem and \$20-60 million to repair it. Ms. Lemmon pointed out that the goal is to protect the District financially and to look at liability and whatever obligation or responsibility the District needs to fulfill.

Ms. Lemmon mentioned that the District filed a special action appeal in the Rockland case, asking the Court of Appeals to look at the legal issue on the definitions, the statutes, and whether or not the Floodplain Permit was required.

11) SUMMARY OF RECENT ACTIONS

Actions of the Board of Supervisors were included in the FCAB packet.

12) OTHER BUSINESS AND COMMENTS FROM THE PUBLIC

There was no other business or comments from the public.

The meeting was adjourned at 4:20 p.m. by general consent.

Mike Saager
Secretary of the Board

Kathy Smith
Clerk of the Board